

Hanover County Public Records Request Policy

Hanover County embraces the principle of open government and is committed to providing the same exceptional level of customer service in response to requests for public records that it provides in all other areas. The County is also mindful of the need to protect the legitimate privacy interests of individuals and to comply with other laws that may limit the County's ability to provide access to certain records.

The purpose of this policy is to ensure consistency in responding to public records requests to Hanover County. This policy governs responses to public records requests made to the County Administrator's Office and all departments under its supervision, members of the Board of Supervisors and County-appointed officials, with the exception of members of the School Board.

Your rights under the Virginia Freedom of Information Act (FOIA)

The Virginia Freedom of Information Act (FOIA), Title 2.2, Chapter 37, Sections 2.2-3700 through 2.2-3714 of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of the media access to public records in the possession of public bodies, public officials and public employees or agents.

Public records include any writing or recording, in any format (including handwritten notes, typewritten documents, electronic files, text messages and audio or video recordings), prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific statutory exemption applies. A record of the discussion or transaction of public business is considered a public record even if not stored on county-issued equipment.

The purpose of FOIA is to ensure the people of the Commonwealth ready access to public records in the custody of a public body or its officers and employees, and free entry to meetings of public bodies. In order to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government, the provisions of FOIA are to be liberally construed and any exemption from public access is to be narrowly construed.

Citizens of the Commonwealth of Virginia and representatives of the media have the following rights:

- To inspect and/or to receive copies of public records
- To request that any charges for the requested records be estimated in advance
- To file a petition in general district court or circuit court to enforce FOIA

How to request records from Hanover County

You may request records by mail, fax, e-mail, in person or over the phone. FOIA does not require that your request be in writing, nor must you state that you are requesting records under FOIA. A request in writing is preferable, however, because it assists the staff in understanding the specific records requested and meeting response deadlines.

Your legal name and address will be required. It is helpful to provide contact information such as your phone number and e-mail address so that County staff may contact you if necessary to request clarification to enable the County to respond more accurately, more quickly and in a potentially less costly manner.

Your request must identify the records you are seeking with “reasonable specificity.” This is a common-sense standard. It is not intended to limit the volume or number of records requested; it simply requires that a request provide sufficient specificity to identify and locate the records. The reason for your request for public records is irrelevant to the County, and you are not required to provide the reason for your request.

FOIA gives you a right to inspect or copy *existing public records*. It does not require the County to create a new record that does not already exist or to provide records in a format in which they do not exist. Although County staff welcomes your questions about the work of the County, and will make its best efforts to answer them, FOIA does not require a response to questions. Only a request for particular documents or other specific existing records triggers the requirement of a response under FOIA.

You may choose to receive electronic records in any format used by the County in its regular course of business. For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, by e-mail or on an electronic storage device such as a computer disk or flash drive. You may also elect to receive a printed copy of records.

Where to submit request

Hanover County encourages you to direct your request to the individual or department from which the records are being sought. Hanover County’s policy is to provide direct access to those departments or individuals that may have the records you seek. Directing your request to the individual or department allows for improved customer service and reduces the time needed to respond to your request. Contact information for county departments is listed on the county’s web site at www.hanovercounty.gov, or you may call the County Administrator’s Office at (804) 365-6005 for department contact information.

If your request is directed to individuals or departments that are not covered under this policy (for example, constitutional officers and their employees and members and employees of the School Board), you will be notified and provided with contact information for that department or individual, if known.

If you do not know which department maintains the records you seek, if you seek records from multiple departments, or if you are seeking records from a member or members of the Board of Supervisors, you may make your request directly to the County FOIA Officer in the County Administrator’s Office, who will coordinate the response to your request. You may contact the County Administrator’s Office by mail, fax, phone or e-mail.

By mail: County Administrator’s Office
c/o Tom Harris, County FOIA Officer
P.O. Box 470
7516 County Complex Road
Hanover, VA 23069

Fax: (804) 365-6234
Phone: (804) 365-6005
E-mail: ctyadm@hanovercounty.gov

The County's responsibilities in responding to your request

The County shall respond to your request within five (5) work days of receipt. The five days begins the next work day after the request is received and does not include weekends or holidays.

If the County is unable to respond to a public records request within five (5) work days, the Departmental FOIA Response Coordinator or County FOIA Officer shall send a written response to the requester stating that it is not practically possible to respond within five days and specifying the conditions that make a response impossible. The County shall then have an additional seven (7) work days to respond to the request.

If more than seven (7) days is necessary to respond to a request for an extraordinary volume of records or which will require an extraordinarily lengthy search, the County shall make reasonable efforts to reach an agreement with the requester for more time. If an agreement cannot be reached, the County Attorney's Office may petition the court for additional time to respond.

Records exempt from FOIA

Certain records are exempt from FOIA for reasons such as privacy protection, contract negotiations, and legal advice or action. Records which are exempt from FOIA include, but are not limited to:

- personnel and scholastic records
- written advice of legal counsel and any other records protected by the attorney-client privilege
- legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter that is properly the subject of a closed meeting
- appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease
- records relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such records would adversely affect the bargaining position or negotiating strategy of the public body

Exemptions from FOIA may be found in Virginia Code Section 2.2-3705.1 and the following sections. Records which are exempt from FOIA may be withheld by Hanover County.

Records may be withheld entirely or in part because their release is prohibited by other laws or because the County has exercised its discretion to withhold exempt records in accordance with FOIA. When records are withheld, the County's response shall be in writing within five (5) work

days of the original request. The response shall identify with reasonable specificity the volume and subject matter of withheld records and cite, as to each category of withheld records, the specific code section that authorizes the withholding of the records.

Public records requests submitted to the County become public records and therefore are subject to disclosure under FOIA unless an exemption applies.

In addition to FOIA, certain state and federal laws outside of FOIA prohibit disclosure of specific types of records and specific types of information contained in records maintained by the County.

Costs

In keeping with the County's goal to provide its customers requested records as quickly and conveniently as possible, records will be provided at no cost whenever possible.

FOIA allows a public body to charge reasonable costs incurred in accessing, duplicating, supplying or searching records. Costs may include two components, personnel costs and supply costs.

If a request requires more than 60 minutes to process, the County will charge for actual personnel costs. Personnel charges will reflect staff time spent searching for or compiling the requested records. It will not include general overhead costs. Personnel charges will reflect the hourly rate, and overtime if required, of the employee who is processing the request (excluding fringe benefits). The County will not charge for legal review, however staff time spent in redaction may be charged.

When a staff member must search his/her own e-mail and files, personnel charges corresponding to his/her hourly rate may be charged.

The second component of costs of responding to a record request are costs of supplies, such as computer disks, flash drives, or other means of electronic storage and photocopies. The county will not charge for the first twenty (20) photocopies. Any additional photocopies and any costs of other supplies will be charged in accordance with the Hanover County cost schedule.

If there are costs involved in responding to your request, you will be provided with an estimate of the projected costs for approval before the request is processed. Advance notification of charges informs you of any costs in advance and gives you the opportunity to limit the scope of your request, which may reduce costs.

If the County estimates that costs will be under \$200, you will be provided with an invoice for costs when you are provided with the requested records. Invoices are required to be paid within 30 days of receipt, or payment may be made at the time requested records are received.

If the County estimates that costs will exceed \$200, a deposit will be required prior to processing your request. The deposit may not exceed the estimated charges and will be credited toward the final cost of supplying the requested records. The five days to respond to the request do not begin until the requester has paid the deposit. Should the actual cost be less than the deposit, any balance remaining from the deposit will be refunded. In certain cases in which costs are estimated to exceed \$200, the County may require a deposit in the full amount of the

estimate, or may require a deposit in a lesser amount and the balance paid before the records are provided.

All payments must be made payable to Hanover County and delivered to the County Administrator's Office, Treasurer, or the department where the request is made. All payments will be deposited upon receipt.

If you owe the County money from a previous public records request that has remained unpaid for more than 30 days, Hanover County may require payment of the past-due bill before responding to your new public records request.

For more information

You may contact the County FOIA Officer in the County Administrator's Office by email at ctyadm@hanovercounty.gov or by phone at (804) 365-6005.

You may find more information about FOIA on the website of the Virginia Freedom of Information Advisory Council at <http://foiacouncil.dls.virginia.gov/>. The Council may be contacted by e-mail at foiacouncil@leg.state.va.us or by phone at (804) 225-3056 or toll-free at 1-866-448-4100.